

AMENDED IN SENATE JUNE 30, 2004
AMENDED IN SENATE JUNE 8, 2004
AMENDED IN SENATE APRIL 13, 2004
AMENDED IN SENATE MARCH 23, 2004
AMENDED IN SENATE SEPTEMBER 8, 2003
AMENDED IN SENATE SEPTEMBER 3, 2003
AMENDED IN SENATE JULY 7, 2003
AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 493

Introduced by Assembly Member Salinas
(Coauthor: Senator McPherson)

February 14, 2003

An act to add Section 6608.5 to the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 493, as amended, Salinas. Sexually violent predators.

Existing law provides for the commitment of convicted sexually violent predators to the custody of the State Department of Mental Health for treatment, under specified conditions. If the Director of Mental Health determines that the person's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory

sexual violence while under supervision and treatment in the community, the director is required to forward a report and recommendation for conditional release to the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and the court is required to set a hearing, as specified. A person who has been committed as a sexually violent predator may petition the court for conditional release with or without the recommendation or concurrence of the Director of Mental Health. Upon receipt of a petition from the Director of Mental Health or a committed person, if that petition is not based upon frivolous grounds, the court is required to hold a hearing to determine whether the person committed would be a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under supervision and treatment in the community; if not, the court is required to order the committed person placed with an appropriate forensic conditional release program operated by the state for one year.

This bill would require a nonparolee who is conditionally released under these provisions to be placed in the county of the domicile, *as defined*, unless the court finds that extraordinary circumstances, as defined, require placement outside the county of domicile. *The bill would require the department to consider concerns of the victim or the victim's next of kin.* The bill would require the county of domicile to designate, and notify the department of, the county agency or program that will provide assistance and consultation in the process of locating and securing housing within the county for persons who are about to be conditionally released. By establishing new duties for counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.



This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 6608.5 is added to the Welfare and Institutions Code, to read as follows:

6608.5. (a) A person who is conditionally released pursuant to this article shall be placed in the county of the domicile of the person prior to the person's incarceration, unless the court finds that extraordinary circumstances require placement outside the county of domicile. ~~For the purposes of this section, "domicile" does not mean the county where the person committed the offense while confined in a state prison or in a local jail facility or while confined for treatment in a state hospital, unless that county was also the county of domicile immediately preceding the person's confinement. For purposes of~~

(b) (1) *For the purposes of this section, "county of domicile" means the county where the person has his or her true, fixed, and permanent home and principal residence and to which he or she has manifested the intention of returning whenever he or she is absent. For the purposes of determining the county of domicile, the court may consider information found on a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or information contained in an arrest record, probation officer's report, trial transcript, or other court document. If no information can be identified or verified, the county of domicile of the individual shall be considered to be the county in which the person was arrested for the crime for which he or she was last incarcerated in the state prison or from which he or she was last returned from parole.*

(2) *In a case where the person committed a crime while being held for treatment in a state hospital, or while being confined in a state prison or local jail facility, the county wherein that facility was located shall not be considered the county of domicile unless*

1 *the person resided in that county prior to being housed in the*
2 *hospital, prison, or jail.*

3 *(c) For the purposes of this section, “extraordinary*
4 *circumstances” means circumstances that would inordinately*
5 *limit the department’s ability to effect conditional release of the*
6 *person in the county of domicile in accordance with Section 6608*
7 *or any other provision of this article, and the procedures described*
8 *in Sections 1605 to 1610, inclusive, of the Penal Code.*

9 ~~*(b)*~~

10 *(d) The county of domicile shall designate a county agency or*
11 *program that will provide assistance and consultation in the*
12 *process of locating and securing housing within the county for*
13 *persons committed as sexually violent predators who are about to*
14 *be conditionally released under Section 6608. Upon notification*
15 *by the department of a person’s potential or expected conditional*
16 *release under Section 6608, the county of domicile shall notify the*
17 *department of the name of the designated agency or program, at*
18 *least 60 days before the date of the potential or expected release.*

19 *(e) The department shall take into consideration victim or*
20 *victim next of kin concerns and proximity when recommending*
21 *specific placement for community outpatient treatment.*

22 SEC. 2. Notwithstanding Section 17610 of the Government
23 Code, if the Commission on State Mandates determines that this
24 act contains costs mandated by the state, reimbursement to local
25 agencies and school districts for those costs shall be made pursuant
26 to Part 7 (commencing with Section 17500) of Division 4 of Title
27 2 of the Government Code. If the statewide cost of the claim for
28 reimbursement does not exceed one million dollars (\$1,000,000),
29 reimbursement shall be made from the State Mandates Claims
30 Fund.

31 SEC. 3. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety
33 within the meaning of Article IV of the Constitution and shall go
34 into immediate effect. The facts constituting the necessity are:

35 In order to provide state and local authorities with urgently
36 needed clarification with respect to procedures involved with the
37 conditional release of sexually violent predators, it is necessary
38 that this act take effect immediately.

O